



MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

We strive to be caring, professional and fair

To: The Monroe County Planning Commission
From: Bill Harbert, Senior Planning Technician *BH*
Through: Townsley Schwab, Acting Sr. Director of Planning & Environmental Resources *TS*
Date: October 7, 2008
Subject: *Request for a Setback Variance by Thomas & Nancy Miller for property located at 1136 West Shore Drive, Big Pine Key, Mile Marker 30 (bayside)*
Real Estate No. 00270500.000000

Meeting: October 22, 2008

I REQUEST:

The applicant has installed a brick paver driveway, sidewalk and patio that encroach within both of the property's side yard setbacks. The property is located in the Improved Subdivision (IS) District. The Applicant is requesting a reduction of eight (8) feet from the required ten (10) foot side yard setback along the southern property line and two (2) feet from the required five (5) foot side yard setback along the northern property line. As a result, the side yard setback to the South would be two (2) feet and the side yard setback to the North would be three (3) feet. The granting of this variance will allow the property owner to keep most of the after-the-fact pavers in their current configuration.



View of Southern property line



View of Northern property line

1
2 Location:

3 Address: 1136 West Shore Drive, Big Pine Key, Mile Marker 30 (bayside)

4 Legal Description: Block 12, Lot 10, Eden Pines Colony 2nd Addition

5 Real Estate (RE) Number: 00270500.000000
6

7 Applicant:

8 Owner: Thomas and Nancy Miller
9

10 II RELEVANT PRIOR COUNTY ACTIONS:
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12 Building Permit 9968, issued on November 2, 1965, approved the construction of the existing
13 single-family residence on the property.
14

15 After-the-fact building permit application 081-1660 was applied for on May 1, 2008 for the
16 after-the-fact installation of the new driveway, walkways and patio. The application is
17 pending until there is a decision regarding the variance.
18

19 III BACKGROUND INFORMATION:
20

21 A. Size of Site: 9,120 ft² (0.21 acres)

22 B. Land Use District: Improved Subdivision (IS)

23 C. Future Land Use Map (FLUM) Designation: Residential Medium (RM)

24 D. Proposed Tier Designation: Tier 1

25 E. Existing Vegetation / Habitat: Developed

26 F. Community Character of Immediate Vicinity: Single-Family Residential

27 G. Flood Zone: VE-EL 11
28

29 IV REVIEW OF APPLICATION:
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31 As set forth in MCC §9.5-281, the required non-shoreline setbacks for the Improved
32 Subdivision (IS) District are as follows: Front yard – 25 feet; Rear yard – 20 feet; and Side
33 yard – 10 / 15 feet (where 10 feet is the required side yard for one side and 15 feet is the
34 minimum combined total of both side yards).
35

36 The site is bordered by the right-of-way of West Shore Drive to the East, developed single-
37 family residential lots to the North and South and the open water of Pine Channel to the
38 West.
39

40 Therefore, the site has a required front yard non-shoreline setbacks of 25 along the right-of-
41 way of West Shore Drive and required side yard non-shoreline setbacks of 10 feet from the
42 southern property line and five (5) feet from the northern property line. In addition, in
43 accordance with MCC §9.5-349, there is a shoreline setback of 20 feet from mean high water
44 line along the shoreline to the West. However, accessory structures, such as brick pavers,
45 that do not exceed more 18 inches above existing grade may occupy up to 60 percent of the
46 area within the shoreline setback.

1
2 The Applicant is requesting a reduction of
3 eight (8) feet from the required ten (10) foot
4 side yard setback along the southern
5 property line and two (2) feet from the
6 required five (5) foot side yard setback
7 along the northern property line. As a result,
8 the side yard setback to the South would be
9 two (2) feet and the side yard setback to the
10 North would be three (3) feet. The granting
11 of this variance will allow the Applicant to
12 keep most of the after-the-fact pavers in
13 their current configuration.



Aerial View of Subject Property

14
15
16 Pursuant to MCC §9.5-523(f), the Planning Commission may grant a variance if the
17 applicant demonstrates that all of the following standards are met:

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19
20
21 A. *The applicant demonstrates a showing of good and sufficient cause:*

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23 The applicant asserts that the brick paver driveway was placed over the footprint of an
24 approved driveway. Although staff could not locate any approvals specifically for the
25 original driveway, walkways or patios, staff did locate the permit for the existing
26 residence, which was constructed in 1966 and is lawfully nonconforming to the current
27 setback requirements. Due to the footprint of the existing ground-level residence, the
28 construction of an adequate driveway and side walkways that do not infringe into the
29 required setbacks would be difficult without modifying the building. Therefore, the
30 applicant demonstrates a showing of good and sufficient cause.

31
32 B. *Failure to grant the variance would result in exceptional hardship to the applicant:*

33
34 The applicant asserts that without a variance the on-site parking would be eliminated, the
35 property would not be as visually appealing and there would be a financial burden to
36 remove and/or replace the pavers. Staff has found that without a variance, it would be
37 difficult, if not impossible, for the property owner to construct an adequate driveway,
38 walkways and patio due to the location of the existing residence and septic field. The
39 only way to build such improvements would be to modify the existing residence.
40 Therefore, failure to grant the variance would result in exceptional hardship to the
41 applicant.

42
43 C. *Granting the variance will not result in increased public expenses, create a threat to*
44 *public health and safety, create a public nuisance, or cause fraud or victimization of the*
45 *public:*
46

1 The granting of the variance will not burden public resources or create a health and safety
2 threat, create a nuisance, cause fraud or victimization to the public.
3

4 D. *The property has unique or peculiar circumstances, which apply to this property, but*
5 *which do not apply to other properties in the same zoning district:*
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7 There is a relatively large, non-conforming residence on the lot, as well as a large boat
8 basin that extends into the property approximately 30 feet. As a result of the unique
9 footprint of the permitted ground-level residence and the size and location of the boat
10 basin, the property has unique or peculiar circumstances, which apply to this property,
11 but which do not apply to other properties in the same zoning district.
12

13 E. *Granting the variance will not give the applicant any special privilege denied other*
14 *properties in the immediate neighborhood in terms of the provisions of this chapter or*
15 *established development patterns:*
16

17 The granting of the variance will not give the applicant special privileges denied to other
18 properties in the immediate vicinity.
19

20 F. *Granting the variance is not based on disabilities, handicaps or health of the applicant or*
21 *members of his family:*
22

23 The granting of the variance is not based on disabilities, handicaps or health of the
24 Applicant or members of his family.
25

26 G. *Granting the variance is not based on the domestic difficulties of the applicant or his*
27 *family:*
28

29 The granting of the variance is not based on the domestic difficulties of the applicant or
30 his family.
31

32 H. *The variance is the minimum necessary to provide relief to the applicant:*
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34 The applicant initially requested a zero foot setback along the side yard to the South.
35 However, after working with staff to show compliance with stormwater and the County
36 Engineer's driveway connection requirements, the applicant scaled back his request and
37 has indicated that he is prepared to remove some of the after-the-fact pavers. As a result,
38 the revised variance request is the minimum necessary to provide relief to the applicant.
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40 V RECOMMENDATION:
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42 Staff recommends **APPROVAL** to the Planning Commission for a variance of eight (8) feet
43 from the required ten (10) foot side yard setback along the southern property line and two (2)
44 feet from the required five (5) foot side yard setback along the northern property line if the
45 following conditions are met:
46

- 1 A. The approval of this variance is based on the design of the development as shown on the
2 site plan submitted with the application. Work not specified or alterations to the site plan
3 may not be carried out without additional Planning & Environmental Resources
4 Department approval.
5
6 B. This variance is to allow the development, as shown on the site plan submitted with the
7 application, within the required side yard setbacks. It does not waive the required side
8 yard setbacks for any future structures or uses.
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10 C. Prior to the issuance of a building permit, the applicant must show that the property will
11 be brought into full compliance with the shoreline setback and open space requirements,
12 as determined by the Administrator of Environmental Resources.
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14 D. An after-the-fact connection permit shall be obtained from the Monroe County Engineer
15 prior to the issuance of After-the-Fact Building Permit 081-1660.
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17 VI PLANS REVIEWED:
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- 19 A. Boundary Survey by R.E. Reece, P.A., dated April 1, 2004 (with hand drawn overlay of
20 new pavers)